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## **SMALL ENTITY COMPLIANCE GUIDE**

**Amendment of the Commission's Rules**

**Governing Standards for Hearing Aid-Compatible Handsets**

**FCC 21-28**

**WT Docket No. 20-3**

**Released: February 22, 2021**

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking docket. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties, or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

**1-888-CALL-FCC (1-888-225-5322)**

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## **I. OBJECTIVES OF THE PROCEEDING**

In the *Amendment of the Commission's Rules Governing Standards for Hearing Aid-Compatible Handsets*, WT Docket No. 20-3, Report and Order, 36 FCC Rcd 112 (2021) (*Report and Order*), the Commission adopted an updated technical standard for hearing aid-compatible wireless devices that was developed by the American National Standards Institute (ANSI). The *Report and Order* incorporated the new standard (the 2019 ANSI Standard) into the Commission's hearing aid compatibility rules by reference as the exclusive technical standard for evaluating the hearing aid compatibility and volume control capability of wireless handsets after a two-year transition from the 2011 ANSI Standard. The standard that was previously incorporated in the Commission's rules (the 2011 ANSI Standard) did not include testing procedures for determining compliance with the Commission's volume control requirement.

The 2019 ANSI Standard was developed through a consensus-based process and, among other changes, incorporates volume control testing standards and testing for a wider range of spectrum bands. In addition, the 2019 ANSI Standard improves the measurement of potential hearing aid interference and, as a result, improves the listening experience for those who use hearing aids. For the first time, the standard incorporates a volume control requirement that will provide significant benefits to persons with hearing loss, whether or not they use hearing aids. Further, the 2019 ANSI Standard reduces testing burdens for wireless handset manufacturers by allowing certain simple tests to be done first to determine compatibility with acoustic coupling, while maintaining an exemption from radiofrequency testing for low power air interfaces. Finally, the 2019 ANSI Standard also harmonizes with other international hearing aid standards, which helps reduce regulatory burdens for hearing aid manufacturers.

The *Report and Order* extended the March 1, 2021 deadline to June 5, 2023 in the Commission's volume control rules to align with the start date for exclusive use of the 2019 ANSI Standard which will provide manufacturers additional time to make the handset model design changes needed to meet the volume control requirements. In addition, the *Report and Order* made corresponding implementation changes to the Commission's rules and refined the hearing aid compatibility labeling and disclosure requirements to make them more informative, consumer-friendly, and less burdensome, and to ensure that consumers have sufficient information to make informed purchasing decisions when selecting hearing aid-compatible handsets.

## **II. COMPLIANCE REQUIREMENTS**

The *Report and Order* adopted revisions to the requirements for handset compatibility to implement the Commission's adoption of the 2019 ANSI Standard, the transition period for compliance, the extension of the volume control requirement, and revisions to the labeling requirements and certification and status reporting dates.

***Application for Certification (47 CFR § 2.1033(d))***

- Handset manufacturers submitting applications for certification of equipment operating under part 20 of this chapter must include a statement indicating compliance with the test requirements of § 20.19 and must maintain test results.

***Definitions (47 CFR § 20.19(a))***

- For purposes of compliance with the Commission's rules for hearing aid-compatible mobile handsets, section 20.19(a) was revised to include a definition for the 2019 ANSI Standard and Volume Control Requirements.

***Hearing Aid Compatibility; Technical Standards (47 CFR § 20.19(b))***

- The March 1, 2021 deadline in the Commission's volume control rules is delayed to align with the start date for exclusive use of the 2019 ANSI Standard of June 5, 2023.
- Starting June 5, 2023, handset manufacturers and service providers are required to certify that new handset models that they offer as hearing aid-compatible meet the 2019 ANSI Standard and the related Volume Control Standard.
- Handsets may be certified under either the 2011 or 2019 ANSI standards during the two-year transition period. After the transition period expires on June 5, 2023, handsets must be updated and recertified under the 2019 ANSI Standard if they were previously certified as hearing aid-compatible under an outdated standard and are later submitted for a Class II permissive change.
- A handset model will be considered hearing aid-compatible if it is certified as hearing aid-compatible under an applicable technical standard for all covered air interfaces and frequency bands even though the handset may also allow operations on air interfaces and frequency bands not covered by that technical standard.
- After the transition period expires on June 5, 2023, service providers may continue offering existing in-inventory (i.e. non-new) handsets certified under older ANSI standards to meet deployment benchmarks until they are ready to offer handset models certified under the new standard.

***Phase-in of Hearing Aid-Compatibility Requirements (47 CFR § 20.19(c))***

- Handset manufacturers and service providers may meet deployment benchmark requirements by counting handset models certified under the 2019 ANSI Standard or earlier versions of the standard as long as these models are still being offered for sale.
- Service providers must make hearing aid-compatible handsets available for consumers to test in each retail store owned or operated by the service provider.
- Handset manufacturers and service providers are required to ensure that 66% of the handset models they offer are hearing aid-compatible. This hearing aid-compatible requirement for handset models offered will increase to 85% pursuant to the following schedule:

- Beginning on October 4, 2021, handset manufacturers must ensure that 85% of the handset models they offer are hearing aid-compatible,
- Beginning on April 4, 2022, Tier I service providers must ensure that 85% of the handset models they offer are hearing aid-compatible, and
- Beginning on April 3, 2023, non-Tier I service providers must ensure that 85% of the handset models they offer are hearing aid-compatible.
- Handset manufacturers and service providers are no longer required to update their selections of hearing aid-compatible handsets periodically because the “refresh” and “differing levels of functionality” requirements in the former sections 20.19(c)(1)(ii) and (c)(4)(ii) have been eliminated.

***Reserved (47 CFR § 20.19(d))***

- Section (d)(4)(ii) has been eliminated, and the requirements previously in this section that remain applicable to handset manufacturers and service providers have been moved to other sections in this Chapter.

***Labeling and Disclosure Requirements for Hearing Aid-Compatible Handsets (47 CFR § 20.19(f))***

- The new rules are reorganized into two parts instead of four. The first part addresses package labeling requirements and the second part addresses requirements for package inserts and user manuals.
- Both parts include requirements for the placement and content of information related to the hearing aid compatibility or volume control capability of wireless handsets, relevant to handsets certified under the 2019 ANSI Standard or an earlier version of the ANSI standard.
  - *Package Label:*
    - A hearing aid-compatible handset’s package label must expressly state that the handset is hearing aid-compatible.
    - A hearing aid-compatible handset’s package label must include the handset’s actual conversational gain both with and without hearing aids if the handset is certified using the 2019 ANSI Standard.
      - Where the actual conversational gain with a hearing aid differs depending on the air interfaces or frequency band being used, the package label should include the lowest actual conversational gain with a hearing aid.
  - *Package Inserts and User Manuals:*
    - Handset manufacturers and service providers are required to include the following information in package inserts or user manuals:
      - A statement that the handset is hearing aid-compatible.

- The ANSI standard used to determine the hearing aid compatibility of the handset model's air interfaces and frequency bands.
- If using the 2011 ANSI Standard or an earlier version of the standard, the lowest hearing aid compatibility rating assigned to any of the covered air interfaces or frequency bands.
- An explanation of the ANSI rating system as well as an explanation of a handset's volume control capabilities.
- The air interfaces or frequency bands on handsets that are not certified to be hearing aid-compatible, if applicable, or have been determined to be hearing aid-compatible under special testing circumstances.
- If a handset model was not certified as hearing aid-compatible over all of its air interfaces or frequency bands, the following prescribed disclosure language that is currently in the rules must continue to be included:
  - This phone has been tested and certified for use with hearing aids for some of the wireless technologies that it uses. However, there may be some newer wireless technologies used in this phone that have not been tested yet for use with hearing aids. It is important to try the different features of this phone thoroughly and in different locations, using your hearing aid or cochlear implant, to determine if you hear any interfering noise. Consult your service provider or the manufacturer of this phone for information on hearing aid compatibility. If you have questions about return or exchange policies, consult your service provider or phone retailer.
- For a handset model that has been certified as hearing aid-compatible under special testing circumstances, there is no specifically prescribe disclosure language other than this information must be disclosed to consumers and an explanation provided as to how this affects the use and operation of the handset.

***Model Designation Requirements (47 CFR § 20.19(g))***

- Device manufacturers who make physical changes to a handset that results in a change in the hearing aid compatibility rating under the 2011 ANSI Standard or an earlier version of the standard are required to give the altered handset a model designation distinct from that of the handset prior to its alteration.

***Website and Record Retention Requirements (47 CFR § 20.19(h))***

- Handset manufacturers and service providers must make available on their websites the ANSI standard used to evaluate hearing aid compatibility.
- Service providers are no longer required to specify on their websites the level of functionality of their hearing aid-compatible handset models and an explanation of how the functionality varies at the different levels.

***Reporting Requirements (47 CFR § 20.19(i))***

- All service providers, including *de minimis* service providers, must submit Form 855 certifications on their compliance with the requirements of this section by January 31 of each year, and all handset manufacturers, including *de minimis* handset manufacturers, must submit Form 655 status reports on their compliance with the requirements of this section by July 31 of each year.
- The filing window for service providers will open the first business day in January and the filing window for handset manufacturers will open the first business day in July.

***Hearing Aid Compatibility Labeling Requirements for Wireline Telephones (47 CFR § 68.300)***

- The Commission revised the hearing aid-compatibility labeling requirements for wireline telephones by making a technical correction to section 68.300 to restore a definition of “permanently affixed” that had been erroneously deleted from prior versions.
  - “*Permanently affixed*” means that the label is etched, engraved, stamped, silkscreened, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment or on a nameplate of metal, plastic, or other material fastened to the equipment by welding, riveting, or a permanent adhesive. The label must be designed to last the expected lifetime of the equipment in the environment in which the equipment may be operated and must not be readily detachable.

**III. RECORDKEEPING AND REPORTING REQUIREMENTS**

The details and specifics of the new recordkeeping and reporting requirements adopted in the *Report and Order* can be found in Section II of this guide under the Compliance Requirements.

**IV. IMPLEMENTATION DATE**

The following rules in the *Report and Order* will become effective on June 3, 2021, 30 days after publication of the text or summary thereof in the Federal Register: 47 CFR §§ 2.1033(d), 20.19(a), (b), (c), (d), (e), (g), (h)(2)(ii), (h)(5), (j), (k), (l), and 68.300(b).

The following rules in the *Report and Order* require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act: 47 CFR § 20.19(f), (h)(1), and (i). These rules shall become effective after the Commission publishes a notice in the Federal Register announcing OMB approval and the relevant effective date.

## **V. INTERNET LINKS**

A copy of the *Report and Order* is available at: <https://docs.fcc.gov/public/attachments/FCC-21-28A1.pdf>.

A copy of the Federal Register Summary of the *Report and Order* is available at: <https://www.govinfo.gov/content/pkg/FR-2021-05-04/pdf/2021-08973.pdf>.